

Remarks

All claims have been rejected under 35 U.S.C. § 103. In light of the amendments above and the arguments below, Applicants respectfully request reconsideration.

§ 103 Rejections

Claims 1 - 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over EURODIAB in view of Mathieu, et al., Mauricio, et al. and DeWille, et al. Claims 6 - 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Al-Qadreh, et al. in view of DeWille, et al.

On page 2 of the Office Action, the Examiner begins an evaluation of Applicants' prior arguments based on a remark that "the instant claims are not directed to any different degree of efficacy." Applicants have now amended the claims (independent claims 1) so that efficacy is noted. Applicants direct the Examiner to the specification, for example page 11, line 23 for support.

Applicants note that the combination of references cited by the Examiner (EURODIAB, Mathieu, et al., Mauricio, et al. and DeWille, et al.) do not combine to show the elimination of diabetes symptoms by use of 1 α -hydroxyvitamin D compounds via oral administration.

Applicants note that claims 6 - 10 have been cancelled.

Applicants believe that the claims are in condition
for allowance and respectfully request allowance. No
fees are believed necessary. However, if a fee is
necessary please charge Deposit Account 17-0055.

Respectfully submitted,

Hector F. DeLuca, et al.

August 12, 2002

By: 

Jean C. Baker
Reg. No. 35,433
Quarles & Brady LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202-4497
(414) 277-5709



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Hector F. DeLuca, et al.
Serial No.: 09/769,579
Filed: January 25, 2001
For: METHOD OF TREATMENT OF TYPE I
DIABETES
Group Art Unit: 1617
Examiner: K. Stiller

RECEIVED

AUG 21 2002

Commissioner For Patents
Washington, D.C. 20231

TECH CENTER 1600/2900

MARKED UP VERSION OF THE CLAIMS

1. (Amended) A method of [delaying] eliminating
the onset of diabetes in a human patient, comprising the
step of orally administering to the patient an effective
amount of a 1 α -hydroxy vitamin D compound such that the
onset of diabetes or diabetes symptoms is [slowed]
eliminated.